

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

75-376 Augusta Drive
Indian Wells, CA 92210
&
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

February 22, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

MINUTES OF JANUARY 25, 2006

MINUTES OF FEBRUARY 8, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

1. Inclusion of Financial Hardship information:
 - A. On Website
 - B. In Appeal Form mailing

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2006 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2005/06 BUDGET
(Review and discuss budget issues for this fiscal year.)

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3. 2006/07 BUDGET
(Review and discuss budget issues for this fiscal year.)
4. 2006 Rulemaking Calendar

CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

BOARD MEMBERS' REPORTS

(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

APPEALS

(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years)

Intents to Appeal in February 2006 _____
Appeals docketed in February 2006 _____
Appeals packets completed in February 2006 _____

	2001	2002	2003	2004	2005	2006
January	387	586	482	357	422	236
February	302	420	405	421	435	
March	421	320	470	513	400	
April	372	559	526	416	406	
May	612	589	359	325	187	
June	421	384	446	486	517	
July	410	511	367	320	372	

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August	549	426	345	386	345	
September	350	374	448	269	380	
October	482	438	435	425	346	
November	507	368	331	332	326	
December	447	389	621	509	442	
TOTAL	5255	5367	5235	4762	4651	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, March 8, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the Occupational Safety and Health Appeals Board, should contact the Disability Accommodation Coordinator at the below listed office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information
Contact**

Janet M. Eagan
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751

oshappeals@dir.ca.gov

<http://www.dir.ca.gov/oshappeals/>

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
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State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA

Government Code § 11126 (a), (c)(3), and (e)

for

Wednesday, February 22, 2006

10:00 a.m.

Indian Wells, California

&

Sacramento, California

&

West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: February 10, 2006

RE: Closed Session of the Board on February 22, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. AC FRAMERS, INC., 04-R2D1-318
2. C. OVERAA & COMPANY, 04-R1D5-3502
3. OLD COUNTRY ROOFING, 03-R1D5-1541

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ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ACE LATHING, INC., 03-R1D4-4817
2. AERO ELECTRIC CONNECTOR INC, 05-R3D5-4272 THROUGH 4276
3. ALAMEDA COUNTY SHERIFF'S OFFICE, 04-R1D4-2524
4. ASSOCIATED FEED & SUPPLY COMPANY, 03-R6D1-3675 THROUGH 3677
5. BERG LACQUER COMPANY dba ELLIS PAINT, 04-R4D2-1370 AND 1371
6. BURBANK FIRING LINE, 04-R4D3-3380
7. CAL BODY STEEL FORMING, 03-R6D1-4763 AND 4764, 05-R6D1-4616 THROUGH 4619
8. CHAMPION HOME BUILDERS, 03-R2D5-1569
9. CHAMPION HOME BUILDERS, 03-R2D5-1570 AND 1571
10. CLEVELAND WRECKING COMPANY, 03-R1D1-5007
11. EARTH & VINES PROVISIONS, INC., 05-R2D1-954 AND 955
12. FAIRWAY SALVAGE, 03-R4D2-3627
13. FRONTIER COOLING INC., 03-R3D7-3579 THROUGH 3581
14. HARMON CONSTRUCTION COMPANY, 05-R2D3-194
15. HILTON ANAHEIM, 04-R3D1-4176
16. HOWARD DRYER CO., 03-R2D3-0912, 0913 AND 3742
17. J.E. WILLIAMS CONSTRUCTION CO., 05-R2D2-080 AND 081
18. JORGE HERNANDEZ MUNOZ FARM LABOR CONTRACTOR, 04-R2D3-4729 AND 4730
19. KIE-CON, 03-R6D1-3836 AND 3837

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20. MAINSTAY BUSINESS SOLUTIONS, 04-R6D2-3550 THROUGH 3552
21. PEP BOYS, 05-R4D2-045 AND 046
22. GENE PERSALL, 05-R6D1-161 THROUGH 167
23. BRIAN THOMAS PETERS, 03-R4D1-3979 AND 3980
24. PLAINS ALL AMERICAN PIPELINE, L.P. PLAINS ALL AMERICAN, INC., 03-R4D3-3309
25. POPULAR TEXTILE CORPORATION, 03-R4D2-3811 AND 3812
26. POWERHOUSE BUILDING, INC., 04-R1D5-4357 AND 4358
27. SATICOY FOODS CORP., 04-R6D2-1995 THROUGH 1998, 04-R6D2-2032
28. SATICOY FOODS CORP., 04-R6D2-1999 THROUGH 2004
29. SERVICE 1ST, 04-R3D1-1436, 04-R3D1-1437 AND 1438
30. SHOOK AND WALLER CONSTRUCTION, 05-R1D5-1418
31. SILGAN PLASTICS CORPORATION, 04-R4D3-3598 AND 3599
32. STEVE P. RADOS, INC., 03-R1D5-1243 THROUGH 1247
33. STONE & CABINET FACTORY WHOLESALE GALLERY, 04-R2D1-4022 AND 4023
34. THE SCOTTS COMPANY, 05-R3D3-3554
35. TROY – CSL LIGHTING, INC., 03-R4D4-3314 THROUGH 3323
36. VALLEY TRANSPORT, 03-R2D1-2920 THROUGH 2922
37. WEST COAST BACK HOE, INC., 05-R3D3-4117 THROUGH 4119

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PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. GOODYEAR TIRE, 03-R4D3-294 THROUGH 296
ACTION: Returned from the February 8, 2006, meeting for further Board review.

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. GOODYEAR TIRE, 03-R4D3-294 THROUGH 296

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

ACE LATH & PLASTERING, 01-R6D1-4798 through 4806
B & T INDUSTRIES, 03-R6D1-847 THROUGH 852
BLF FRAMING, 02-R4D3-1837 & 1838
BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
BEHAVIORAL HEALTH SERVICES, INC., 01-R3D5-3995 through 3997
BILL CALLAWAY & GREG LAY dba WILLIAMS REDI MIX, 03-R2D1-2400
BLUE DIAMOND MATERIALS, 02-R5D2-1268
BORDEN MANUFACTURING, 04-R2D3-4390
CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
COX COMMUNICATIONS, 03-R3D2-1942
DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
FCI CONSTRUCTORS, 01-R4D4-2161 & 2162
HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
HEARN CONSTRUCTION, INC., 02-R6D1-3533 through 3536
HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ILH CONSTRUCTION, 02-R1D1-4171 & 4172
IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 through 2780
J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
JAMES HIGBY ENGINEERING, 02-R4D3-4562 through 4567
JERLANE, INC., dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344
K. A. BINE CONSTRUCTION, 03-R1D5-2031
KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
KEYSOR-CENTURY CORPORATION, 02-R3D7-745 through 771
KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 through 1209 & 02-1273
KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332

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LONG BEACH CITY COLLEGE, 03-R3D5-2747
LOWPENSKY MOULDING, 03-R1D1-3405
MCI WORLDCOM INC., 00-R1D1-440 through 442
MEDALLION INDUSTRIES, INC., 02-R6D1-2825 through 2830
MORILLO CONSTRUCTION, 03-R4D2-1218 through 1222
McDONALDS #10660, 03-R1D3-4116 & 4117
NEW ENGLAND SHEET METAL WORKS, 02-R2D5-2091
NIBBLELINKS MASONRY CONSTRUCTION, 02-R3D3-1399 through 1401
NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 through 202
PMR RACE CARS, 03-R3D3-1824 & 1825
POUK & STEINLE, INC., 03-R4D2-1495 & 1496
RII PLASTERING INC., 02-R3D1-2679
RAMONA EQUIPMENT RENTAL, INC., 02-R3D2-2944 through 2948
SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 through 1656
SHEFFIELD FURNITURE CORPORATION, 00-R6D2-1322 et. al. & 01-1397
SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
STILES PAINT MANUFACTURING, 02-R1D4-1630
STOCKTON TRI INDUSTRIES, INC., 02-R5D1-4946
STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
TRIO METAL, 03-R4D4-0316 & 0317
UNITED AIRLINES, 00-R1D5-2844
WAREHOUSE DEMO SERVICES, 03-R1D4-3427
WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

JA CON CONSTRUCTION, INC., 03-R3D2-441
Discussion on Decision After Reconsideration Draft

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

APPELLATE COURT:

1. SULLY MILLER CONTRACTING CO., C049013 (01CS01669) 99-896
2. BRAGG CRANE, (LA) B182094 (BS091587) 01-2428
3. BEUTLER HEATING & AIR, C050020 (01CS01762) 98-014
4. MOUNTAIN CASCADE, C050452 (01CS01811) 99-1024
5. TEICHERT CONSTRUCTION, C050709(02CS00517) 98-2512

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6. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
7. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. UNDERGROUND CONST. CO. 02CS00708 (00-2356)
3. DSS ENG. CONTRACTORS, 02CS00928 (99-1023)
4. CASTLE PRECISION INDUSTRIES, C02CS01896 (01-652/56)
5. TUTOR-SALIBA-PERINI (03CS803), 03CS00202 (97-3209/12)
6. SUNRISE WINDOW CLEANERS, INC., 03CS00300 (00-3220/21)
7. TEICHERT AGGREGATES, 03CS00659 (01-1193)
8. VANCE BROWN BUILDERS, 03CS00660 (00-3318/19)
9. BENICIA FOUNDRY/IRON WORKS, 03CS00802 (00-2976/2987)
10. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
11. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
12. ARB, INC., 03CS01454 (01-2119)
13. MOUNTAIN CASCADE, 03CS01655 (01-3561)
14. RUDOLPH & SLETTEN, 04CS00540 (01-478)
15. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
16. MATAROZZI-PELSINGER BUILDERS, 04CS01204 (01-1400)
17. BLF FRAMING, INC., 04CS01618 (02-1837/38)
18. C DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
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1. ARB, INC., 02-R5D3-1574
Discuss Motion for Sanctions and Request for Hearing
2. STOCKTON TRI INDUSTRIES, INC., 02-R5D1-4946
Discussion on Decision After Reconsideration Draft
3. Discussion of applicability of LC 6601 to grants and denials of late filings of appeals.

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.